

# HOUSE BILL No. 1369

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-6.8-6; IC 33-37.

**Synopsis:** Human trafficking. Requires a court to assess a human trafficking victims assistance fee against a person convicted of patronizing a prostitute if the prostitute is a victim of human trafficking. Specifies that the fee is: (1) \$1,000 if the prostitute is at least 18 years of age; and (2) \$1,500 if the prostitute is less than 18 years of age. Provides that funds collected from the human trafficking victims assistance fee shall be deposited in the family violence and victim assistance fund. (The family violence and victim assistance fund provides funding for domestic violence prevention and treatment, child abuse prevention, and victim and witness assistance programs.)

**Effective:** July 1, 2015.

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## Kirchhofer

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January 14, 2015, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1369

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A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-2-6.8-6, AS ADDED BY P.L.130-2009,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 6. The sources of the fund include the following:  
4 (1) Amounts deposited under IC 33-37-7-9.  
5 (2) Amounts distributed from the state user fee fund under  
6 IC 33-37-9-4(a)(7).  
7 **(3) Amounts from the human trafficking victims assistance fee**  
8 **deposited under IC 33-37-7-2 and IC 33-37-7-8.**  
9 SECTION 2. IC 33-37-5-33 IS ADDED TO THE INDIANA CODE  
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2015]: Sec. 33. (a) **This section applies to criminal actions.**  
12 (b) **The court shall assess a human trafficking victims assistance**  
13 **fee against a person convicted of patronizing a prostitute**  
14 **(IC 35-45-4-3) if the court finds the prostitute is a victim of human**  
15 **or sexual trafficking under IC 35-42-3.5. The court must make the**



determination under this subsection based on a preponderance of the evidence. A conviction under IC 35-42-3.5 is not required for the court to make a determination under this subsection.

(c) The human trafficking victims assistance fee is:

(1) one thousand dollars (\$1,000) if the prostitute is at least eighteen (18) years of age; and

(2) one thousand five hundred dollars (\$1,500) if the prostitute is less than eighteen (18) years of age.

SECTION 3. IC 33-37-7-2, AS AMENDED BY P.L.284-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected



under IC 33-37-5-18.

(7) The following:

(A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(B) This clause applies before July 1, 2013, and after June 30, 2015. For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(C) This clause applies after June 30, 2013, and before July 1, 2015. For a county not operating under the state's automated judicial system, five dollars (\$5) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of



the sexual assault victims assistance fees collected under IC 33-37-5-23.

(f) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of



the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(k) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-32 (before its expiration on January 1, 2015).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(m) This subsection applies to a county that is not operating under the state's automated judicial system. The clerk of a circuit court shall distribute monthly to the county auditor the following part of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a) for deposit in the clerk's record perpetuation fund:

(1) Twenty percent (20%), before July 1, 2013, and after June 30, 2015.

(2) Two dollars (\$2) of each fee collected, after June 30, 2013, and before July 1, 2015.

(n) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The



auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

- (1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and
- (2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

**(o) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the human trafficking victims assistance fee collected under IC 33-37-5-33 for deposit in the family violence and victim assistance fund established by IC 5-2-6.8-3.**

SECTION 4. IC 33-37-7-8, AS AMENDED BY P.L.136-2012, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the



1 county auditor as the county share twenty percent (20%) of the amount  
2 of fees collected under the following:

- 3 (1) IC 33-37-4-1(a) (criminal costs fees).
- 4 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 5 (3) IC 33-37-4-4(a) (civil costs fees).
- 6 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 7 (5) IC 33-37-5-17 (deferred prosecution fees).

8 (c) The city or town fiscal officer shall retain twenty-five percent  
9 (25%) as the city or town share of the fees collected under the  
10 following:

- 11 (1) IC 33-37-4-1(a) (criminal costs fees).
- 12 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 13 (3) IC 33-37-4-4(a) (civil costs fees).
- 14 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 15 (5) IC 33-37-5-17 (deferred prosecution fees).

16 (d) The clerk of a city or town court shall distribute semiannually to  
17 the auditor of state for deposit in the state user fee fund established in  
18 IC 33-37-9 the following:

- 19 (1) Twenty-five percent (25%) of the drug abuse, prosecution,  
20 interdiction, and correction fees collected under  
21 IC 33-37-4-1(b)(5).
- 22 (2) Twenty-five percent (25%) of the alcohol and drug  
23 countermeasures fees collected under IC 33-37-4-1(b)(6),  
24 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 25 (3) One hundred percent (100%) of the highway work zone fees  
26 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 27 (4) One hundred percent (100%) of the safe schools fee collected  
28 under IC 33-37-5-18.
- 29 (5) One hundred percent (100%) of the automated record keeping  
30 fee (IC 33-37-5-21) not distributed under subsection (a).

31 (e) The clerk of a city or town court shall distribute monthly to the  
32 county auditor the following:

- 33 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
34 interdiction, and corrections fees collected under  
35 IC 33-37-4-1(b)(5).
- 36 (2) Seventy-five percent (75%) of the alcohol and drug  
37 countermeasures fees collected under IC 33-37-4-1(b)(6),  
38 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

39 The county auditor shall deposit fees distributed by a clerk under this  
40 subsection into the county drug free community fund established under  
41 IC 5-2-11.

42 (f) The clerk of a city or town court shall distribute monthly to the





city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26. The funds retained by the city or town shall be prioritized to fund city or town court operations.

(j) The clerk of a city or town court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and



1 manages the net earnings the Indiana Bar Foundation receives  
2 from IOLTA accounts; and

3 (2) use the fees the Indiana Bar Foundation receives under this  
4 subsection to assist or establish approved pro bono legal services  
5 programs.

6 The handling and expenditure of the pro bono legal services fees  
7 received under this section by the Indiana Bar Foundation (or its  
8 successor entity) are subject to audit by the state board of accounts. The  
9 amounts necessary to make the transfers required by this subsection are  
10 appropriated from the state general fund.

11 **(k) The clerk of a city or town court shall distribute**  
12 **semiannually to the auditor of state one hundred percent (100%)**  
13 **of the human trafficking victims assistance fee collected under**  
14 **IC 33-37-5-33 for deposit in the family violence and victim**  
15 **assistance fund established by IC 5-2-6.8-3.**

